

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

THURMAN DEE PAYNE,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 08-3057-CV-S-RED-H
DAVID SCHLINK and)	
MARTY C. ANDERSON, Warden,)	
)	
Respondents.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

After the magistrate entered the report and recommendation in this case, this Court was informed that petitioner has been transferred, as of August 13, 2008, to the Federal Correctional Institution in Beckley, West Virginia. In his petition for habeas corpus relief, petitioner was requesting that this Court order his transfer to a facility other than the Work Cadre Unit at the Medical Center. Because petitioner has received the relief requested,¹ and because there are no remaining issues or controversies in this case, the Court finds that the petition should be dismissed

¹ Petitioner specifically requested that he be transferred to a low security facility in the Western Region. Because there is no constitutional right to be housed in a given institution, Olim v. Wakinekona, 461 U.S. 238, 242 (1983), and because petitioner no longer resides at the Medical Center, which was the issue at the heart of his complaint, the Court finds that the relief requested has essentially been granted.

without prejudice.²

Based on the foregoing, it is hereby

ORDERED that petitioner should be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus should be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr

RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

Date: October 16, 2008

²The Federal Public Defender's Office has filed a motion to withdraw. Given the status of this case, the motion will be granted.